

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

HANNAH GITTINGS;
CHRISTOPHER MCNEAL;
NATHAN PEET; and
CARMEN PALMER,

Plaintiffs,

v.

KEVIN MATHEWSON, in his individual capacity;
KENOSHA GUARD;
RYAN BALCH, in his individual capacity;
BOOGALOO BOIS;
KYLE RITTENHOUSE, in his individual capacity;
FACEBOOK, Inc., a U.S. Corporation,

Defendants.

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) Civil Case No.
) 2:20-cv-01483 WED

Attorney for Plaintiffs:

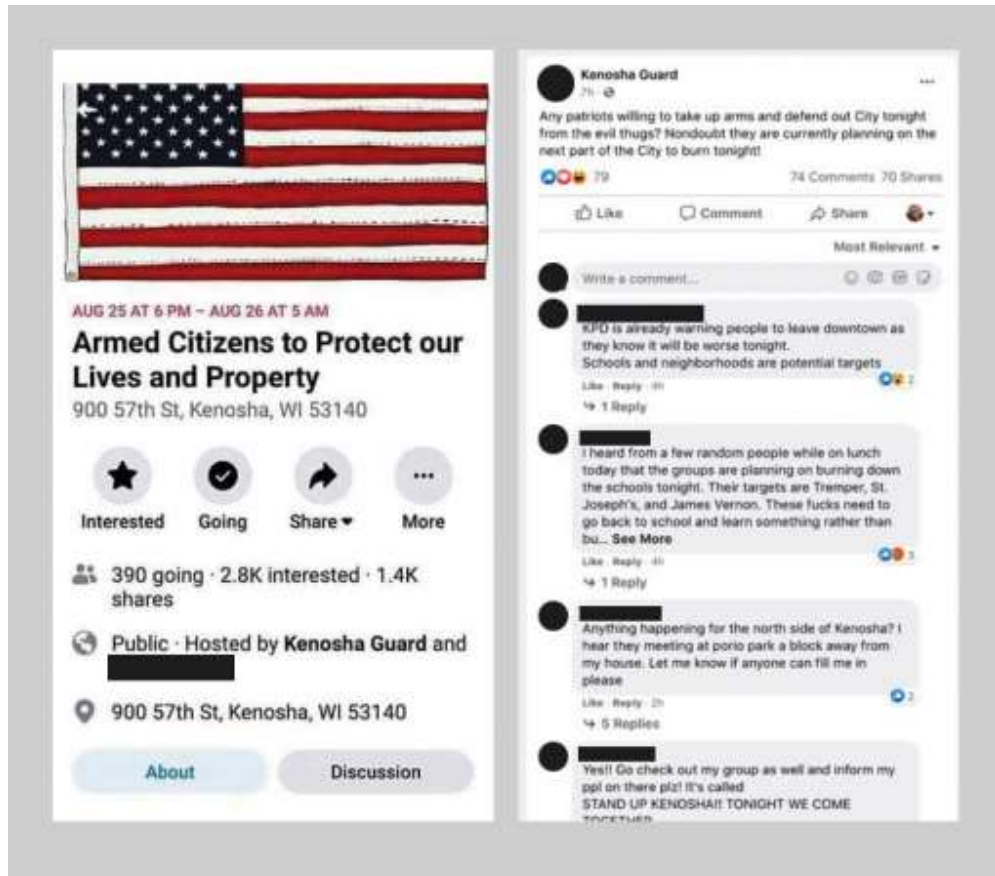
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Plaintiffs, through counsel, complain as follows

1. In our society, heavily armed groups of untrained men are free to possess ludicrous opinions about Hitler having admirable qualities, Black people being intellectually inferior to whites, or our government being controlled by Satan-worshipping pedophiles funded by a Jewish cabal; however, when these beliefs turn into a conspiracy

to deprive the rest of us of our constitutional guarantees through threats, fear, assault, violence, and murder, then the actions and coordination of these right wing militias become the subject matter of our law. We have an army. We do not need people conspiring to play army—particularly when their perceived enemies are American citizens engaged in the expression of their fundamental rights.

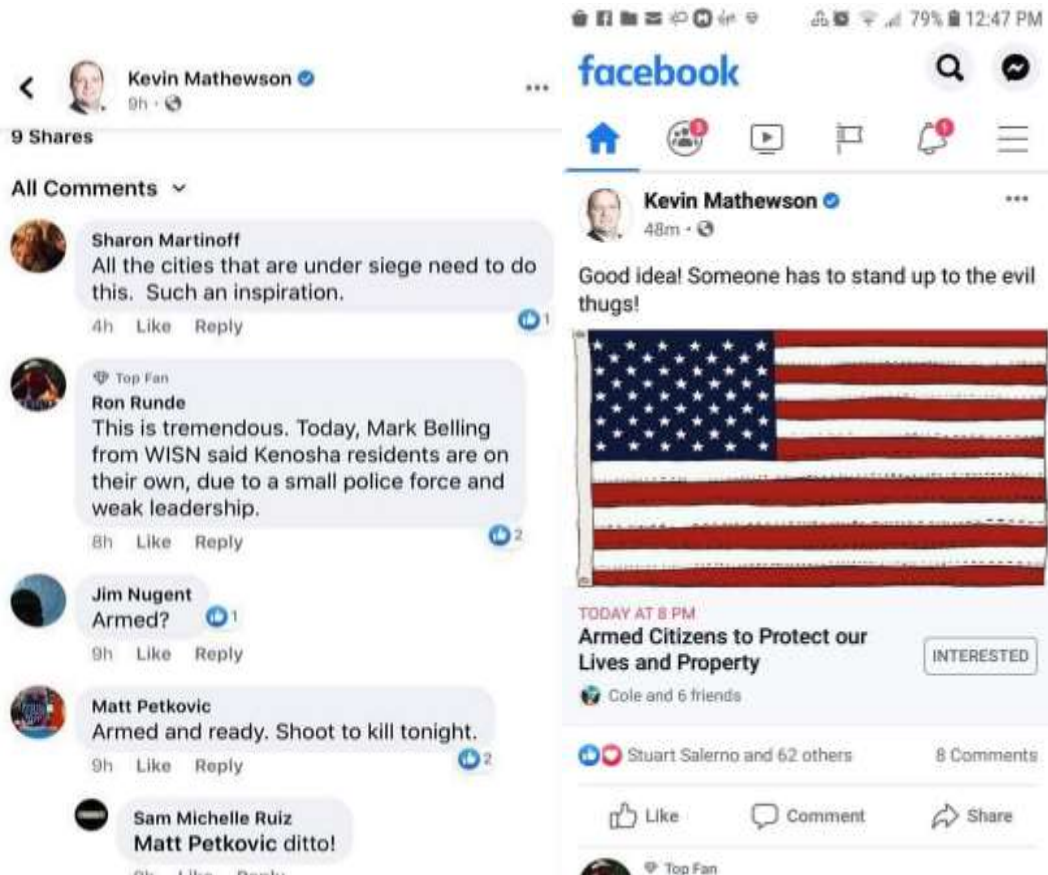
2. The civil rights provisions codified in 42 U.S.C. § 1985 and 42 U.S.C. § 1986 protect us from such harm. They bar private citizens from conspiring for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protections of the laws, or of equal privileges and immunities under the laws. These reconstruction era provisions were designed precisely for the scheme that was violently executed in Kenosha, Wisconsin—a repetition of horrific violence we now experience across the entire country—where white racist militias use Facebook to broadcast and publicize a “call to arms” for untrained private citizens to travel across state lines to the peaceful protests advocating for racial justice in America with assault rifles, tactical gear, and militia grade equipment.



3. These calls to arms, as one might infer, are not met with the responsible consideration of concerned citizens, but by violent, racist rhetoric in which militia members promise to shoot protestors, their desire to literally kill people displayed publicly for all to see.



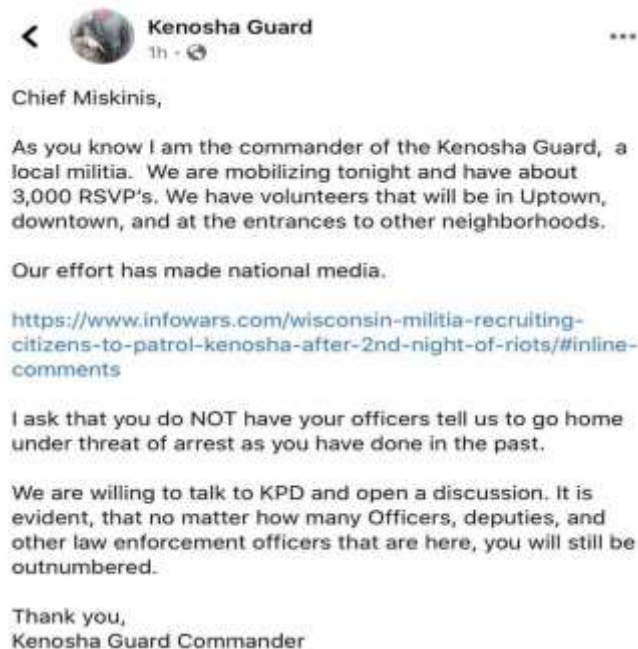
4. These threats are, as one might infer again, not issued by thoughtful and respectful Americans dedicated to the preservation of the republic. Rather, they are people driven by the most outrageous of conspiracy theories, racist hatred of their fellow citizens that one hoped went out with the Ku Klux Klan, and disgust towards anyone who thought that equal protection of the laws was something that ought to be maintained.¹



5. The violent threats are not disavowed by the administrators of these Facebook sites who proclaim themselves, as is the case with Defendant Kevin Mathewson, to be the Commander of the Kenosha Guard; rather, they are adopted through likes and shares, as well as promoted to elected officials and law enforcement as emblematic of their

¹ 42 U.S.C. §§ 1985 and 1986 were part of the Civil Rights Act of 1891, which was signed into law in response to the KKK and other private citizens mobilizing to deny Black Americans their fundamental rights.

militia's strength. In this instance, the Kenosha Guard's Call to Arms was picked up by InfoWars, an alt-right news source whose founders have been banned from numerous platforms including Facebook, Paypal, and YouTube for promoting hate speech and violence against U.S. citizens. Infowars' publication was then proudly shared by Commander Mathewson and posted to the Facebook page of the Kenosha Chief of Police, with the following letter:²



² The text states:

Chief Miskinis:

As you know, I am the Commander of the Kenosha Guard, a local militia. We are mobilizing tonight and have about 3,000 RSVP's. We have volunteers that will be in Uptown, downtown, and at the entrances to other neighborhoods.

Our effort has made national media.

<https://www.infowars.com/wisconsin-militia-recruiting-citizens-to-patrol-kenosha-after-2nd-night-of-riots/>

I ask that you do NOT have your officers tell us to go home under threat of arrest as you have done in the past.

We are willing to talk to KPD and open a discussion. It is evident, that no matter how many Officers, deputies, and other law enforcement officers that are here, you will still be outnumbered.

Thank you,

Kenosha Guard Commander

6. The planning and preparation exhibited in this post led to Plaintiffs and other protestors being terrorized, assaulted, harassed, and placed in so much fear when facing the business end of military grade assault rifles that they determined it was too dangerous to continue to protest. This was the case with Plaintiff Carmen Palmer, a Black woman who was forced to flee Kenosha back to Milwaukee with her children and her racial justice group, but not before having to fix the tires on their cars that were slashed.

7. The Boogaloo Bois, another extremist group, also joined the Kenosha Guard to further the violence. As is now sadly well known, Defendant Kyle Rittenhouse answered the Call to Arms by driving across state lines from Antioch, Illinois, to Kenosha, Wisconsin, where he was provided with an assault rifle by David Dominick Black.³⁴ Upon arrival, he liaised with Mr. Black and Defendant Ryan Balch, avowed member of the Boogaloo Bois, whose social media, like other members of his militia, contains Nazi propaganda such as “Truth Will Triumph, Adolph Hitler,” and “Beyond Europe and the whole world, the international Jewry will be recognized as its entire demonic threat.”⁵

³ David Dominick Black has now been charged with two felony counts for illegally providing the weapon to a person under the age of 18.

<https://www.nbcchicago.com/news/local/kenosha-man-charged-for-giving-kyle-rittenhouse-gun-used-in-shootings/2366748/>

⁴ Mr. Rittenhouse has now been extradited from Illinois to Wisconsin.

<https://edition.cnn.com/2020/10/30/us/kyle-rittenhouse-extradition-kenosha-shooting/index.html>

⁵ Defendant Balch has his own page on Southern Poverty Law Center’s Hatewatch. <https://www.splcenter.org/hatewatch/2020/08/30/wisconsin-man-who-says-he-marched-rittenhouse-kenosha-was-immersed-white-supremacist>



8. In furtherance of the conspiracy, Mr. Black provided Defendant Rittenhouse with the assault rifle; then Mr. Rittenhouse met with Defendant Balch in Downtown Kenosha where Defendant Balch assumed the role of Tactical Advisor of the squad that included Rittenhouse and, along with other armed militia members, took up preplanned sniper positions on roofs and strategic street corners. This effectively controlled the ingress and egress of Black Lives Matter protestors around the Civic Center Park area of downtown Kenosha, the designated meeting point for the protest.

9. That is when tragedy struck. Under the command of Tactical Adviser Balch, the group of coconspirators trailed and harassed Plaintiffs and protestors, scaring them, arguing, intimidating, and ultimately engaging with them in a parking lot. Defendant Rittenhouse, under the tactical supervision of Defendant Balch, then shot and killed two protestors with his assault rifle, as well as shot and grievously injured a third. One of the protestors who was murdered, Anthony Huber, was the life partner of Plaintiff Hannah Gittings who, along with experiencing the nightmare of the militias while peacefully protesting, was forced to watch her best friend and soulmate die.⁶

⁶ Ms. Gittings was the Plaintiff who was called “dyke” by the militia members, receiving other insults and threats from them throughout the course of the event.

10. Perhaps the worst part of this organized deprivation of rights and dignity is that it all could have been prevented. In the days prior to August 25th, Defendant Facebook, which provides the platform and tools for the Kenosha Guard, Boogaloo Bois, and other right-wing militias to recruit members and plan events, received more than 400 complaints and flags concerning the Kenosha Guard site and event page. Reports stated the page was mired in violent rhetoric, with hundreds in the Kenosha community expressing that they were deeply concerned the Kenosha Guard was going out that night looking to intimidate and injure people protesting the shooting of Jacob Blake. In other words, Facebook received more than 400 warnings that what did happen was going to occur.

11. It was only days after Plaintiffs and protestors were forced to flee in terror and watch their friends and loved ones die that Facebook CEO Mark Zuckerberg issued a public apology for what he called an “operational mistake.” If we are to adopt the CEO’s highly sanitized phrase, this “mistake” empowered right wing militias to inflict extreme violence and deprive Plaintiffs and protestors of their rights. More importantly, Facebook *continues* to provide militias with the tools to further their violent conspiracies, at a time when we are entering into an election period in which the President of the United States—who openly supports the activities of these militias, while insulting Black Lives Matter and other racial justice protestors—is currently contesting his obvious loss in our recent election. This refusal to respect our democratic traditions is, amongst several things, a perverse call to arms amongst his already heavily armed right wing supporters, so that this issue is not only ripe, it is live.

12. Between now and Inauguration Day, January 20, 2020, we are almost guaranteed that Facebook will be used again by militarized supporters of the outgoing

President to organize and conspire in a way that deprives American citizens of their rights, as did occur in Kenosha on August 25, 2020.

JURISDICTION AND VENUE

13. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331.

14. The Court has jurisdiction over the State claims via supplemental jurisdiction as set forth in 28 U.S.C. § 1367.

15. Personal jurisdiction is proper over the parties who are Wisconsin residents, as well as Defendant Rittenhouse, who travelled to Kenosha and is now facing criminal charges for his actions there. Defendant Facebook personally availed itself of the marketplace in Wisconsin, and with its hosting of the event page that gave rise to this action, established the minimum contacts necessary to satisfy the requirements of *in personam* jurisdiction.

16. Venue is proper in the Eastern District of Wisconsin pursuant to 28 U.S.C. § 1391(b) because Plaintiff's claim arose in Kenosha, Wisconsin, which is located in the Eastern District of Wisconsin.

NATURE OF THE ACTION

17. This action arises out of the racially motivated conspiracy to deprive Plaintiffs of their rights as citizens of the United States, in violation of 42 U.S.C. § 1985(3). All Defendants had knowledge of this conspiracy and failed to prevent the harm to Plaintiffs, in violation of their duties under 42 U.S.C. § 1986.

18. Defendant Facebook was negligent when it failed to remove the Kenosha Guard home and event pages, despite receiving over 400 reports of the violent rhetoric that was taking place therein.

19. Defendants Mathewson, Balch, and Rittenhouse also committed civil conspiracy as well as met the elements of intentional and negligent infliction of emotional distress.

20. Plaintiffs demand all damages that occurred due to these violations, as well as an injunction preventing Facebook from violating its own policies that are supposed to prevent violent rhetoric, militia groups, and other racially motivated hate groups from congregating and interacting on its site.

PARTIES

Plaintiffs:

21. Plaintiff Hannah Gittings, 23, was the life partner of Anthony Huber, the young man of conscience who was shot and killed by Defendant Rittenhouse while trying to disarm him. Along with watching her partner die, she suffered threats, insults, harassment, and intimidation from the Kenosha Guard and Boogaloo Bois, including having assault rifles pointed directly at her while the militias kenneled protestors. Ms. Gittings is a single mother who works two jobs and has experienced mental and financial injury with the militia killing of her partner. She remains stalwart in Anthony's name, her conscience driven by the desire to make a better world for her daughter.

22. Plaintiff Christopher McNeal is a Black man who has lived in Kenosha for almost twenty-two years, having attended Bradford High School where he played cornerback for the Red Devils. Mr. McNeal was confronted, commanded, assaulted, and harassed, with his movement inhibited by militia members: a Black man being intimidated

and told what he could and could not do, say and could not say, by armed white men.⁷ Mr. McNeal sought the help of the Kenosha police, but was unable to distinguish between the police and the militias, as they appeared to him to be collaborating in their effort to deny the equal protection of the laws and the rights and privileges enumerated in our constitution. Mr. McNeal is a tattoo artist whose conscience and engagement comes from wanting to see Black Americans treated with dignity and respect.

23. Plaintiff Carmen Palmer, a forty-year-old Black woman, has lived in Milwaukee her entire life. She has personally witnessed and experienced discrimination and violence against Black Americans, so that when she saw the shooting of Jacob Blake, she decided enough was enough and it was time to raise her voice for justice. After traveling to Kenosha with her children and social justice church group, she suffered extensive harm at the hands of the militias, including being threatened with rifles, pepper sprayed, and having her and her entire group's tires slashed, trapping them all in Kenosha. "It was the scariest experience of my life," says Ms. Palmer. "And I have seen a lot. I had to keep it together for my children, but when I got home, I had a panic attack."

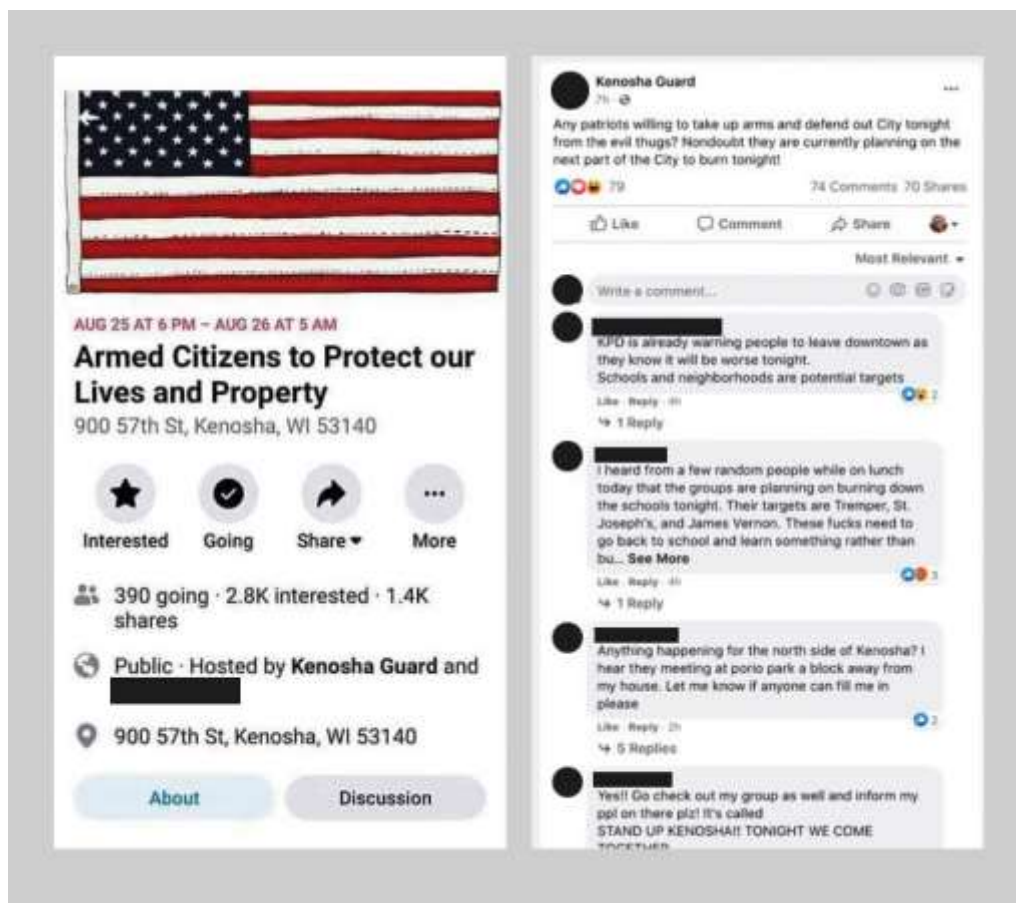
24. Plaintiff Nathan Peet, now twenty-eight, has lived in Kenosha since he was fourteen. He went to both Bradford and Tremper High Schools. He grew up impoverished and experienced first-hand how poor people and people of color are treated differently in this society, but instead of turning his back on the issues, he became an engaged, committed, peaceful activist and independent journalist who live streamed from the event.

⁷ A description of the history of slavery and Jim Crow laws in our country—exactly what the Plaintiffs and protestors were raising their voices against.

25. After working a twelve-hour day, he began to see and hear about the violent threats that were being made on the Kenosha Guard Facebook page about Black Lives Matter protestors. Though exhausted, he went to the protest to both voice his support for Black Lives Matter and to document the actions of the militias. Once he arrived, Mr. Peet was forcibly corralled into the Repair Shop parking lot, where he witnessed the murder of Defendant Rittenhouse's first victim. Though he attempted to rescue the man and take him to the nearby hospital, he was unable to do so due to the lack of space and chaos that had been generated by the militia's corralling tactics.

Defendants:

26. Defendant Mathewson is the Commander of the Kenosha Guard. He operated the Kenosha Guard Facebook page, set up the militia's event, and issued the Call to Arms that was publicized around the country. Despite being aware of the explicitly violent rhetoric and threats on the Kenosha Guard's Facebook and event page, he continued to recruit and organize armed militia, stating to law enforcement officials that they had more than 3000 RSVP's and an operating plan to guard and block entrances on the streets around the protest.



27. In furtherance of this scheme to repress and prevent protest on August 25th—and as Commander of the Kenosha Guard—Mathewson took part in and directed the militia to control access and egress to Civic Center Park and to show force by carrying assault rifles, side arms, and military grade tactical gear into the heart of an American city, where citizens were engaged in expression of their fundamental rights and privileges. He planned, orchestrated, implemented, and took steps in furtherance of a conspiracy designed to threaten and terrorize U.S. Citizens, which ultimately resulted in murder and violence. Commander Mathewson’s militia activities, upon information and belief, track with the killing of George Floyd in Minneapolis. The rise of Black Lives Matter, a racial justice group embraced by civic organizations and respected corporations around the county, seems to have triggered men like Commander Mathewson into forming heavily armed

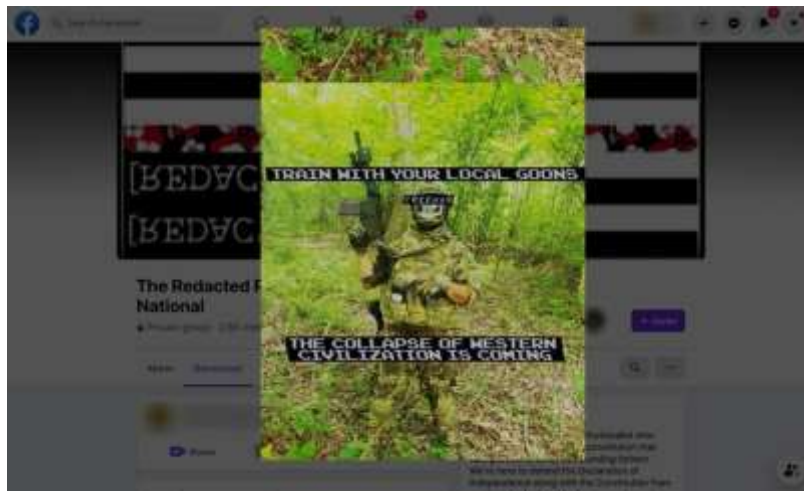
paramilitary groups, with overwhelmingly white male membership, who hold conspiratorial and racist beliefs; they then attempt to take over the streets under the facade of “protecting property,” thereby violating the rights of citizens who tend to be People of Color—people concerned about social justice, or, in short, the people whom these right wings militias believe to be *less American*.

28. Defendant Kenosha Guard is an unincorporated association pursuant to Wis. Stat. chap. 193 and is the Wisconsin-based militia founded by Defendant Commander Mathewson. The Kenosha Guard put out the Call to Arms on August 24, 2020, that was welcomed with violent posts by its members and supporters. It embraced, adopted, and publicized this rhetoric, its members continuing to plan and organize to intimidate and violate the rights and privileges of Black Lives Matter protestors. In furtherance of this scheme, the Kenosha Guard engaged in military tactics against Plaintiffs and protestors, including threats, harassment, assault, the creation of a public nuisance, false assumption of law enforcement authority and, of course, violence and death. A perfunctory review of Kenosha Guard members’ social media reveals an organization steeped in white supremacist propaganda.

29. Defendant Ryan Balch is a Wisconsin resident, Nazi sympathizer, and avowed member of the Boogaloo Bois. Defendant Balch assumed a lead role in “Tactical Advisement” on the night of August 25th, taking command of the squad that included Defendant Rittenhouse. It was under Tactical Adviser Balch’s command that the Kenosha Guard and Boogaloo Bois intimidated, harassed, threatened, and violated the rights and privileges of Plaintiffs and protestors. Based on his own representations, Tactical Adviser Balch was uniquely qualified to assume command and direction of the group that contained

Defendant Rittenhouse. The Southern Poverty Law Center has also noted that Defendant Balch is a Nazi sympathizer who, through his social media, has expressed admiration for Adolph Hitler and the Great Replacement Theory.⁸

30. Defendant Boogaloo Bois is an unincorporated association pursuant to Wis. Stat. chap. 193 and a right-wing militia that has the goal of fomenting race war in America.⁹ The organization is also known as the Boojahideen, as two members have been recently charged with providing material support to Hamas, and a third member was allegedly involved in the recent cold blooded shooting of Sheriff's Officers in Los Angeles, California.



31. Tactical Advisor Balch is an avowed member of the Boogaloo Bois, and upon information and belief, recruited the militia to come to Kenosha and engage in the armed repression of Plaintiffs' and protestors rights. The Boogaloo Bois, whose name derives from the upcoming race war and civil unrest they hope to foment, are organized

⁸ This theory suggests that white people are being eradicated and systematically replaced by People of Color; hence the right-wing chant heard from Charlottesville to Kenosha: "You Will Not Replace Us."

⁹ Southern Poverty Law Center Hatewatch on Boogaloo Bois:
<https://www.splcenter.org/hatewatch/2020/06/05/boogaloo-started-racist-meme>

through reddit, 4chan, Facebook, and other social media platforms. The Kenosha Guard and Boogaloo Bois collaborated, planned, orchestrated, participated, executed, and took steps in furtherance of their assault on protestors on August 25 by, among other actions, blocking access and egress, commanding and harassing Plaintiffs, as well as engaging in unauthorized military tactics, armed intimidation, threats, and violence. The Boogaloo Bois have the following insignia that was seen on at least twenty-armed militia:



32. Defendant Kyle Rittenhouse is an Illinois resident who traveled to Kenosha, Wisconsin, on August 25th to join the militia movement. After liaising with Mr. Black to pick up his assault rifle—an interaction that was obviously planned—he joined a group of similarly-armed men in Downtown Kenosha, then proceeded to shoot three people.

33. Defendant Facebook, Inc., is a Delaware corporation with its principal place of business in Menlo Park, California. It does business and maintains an active presence in Wisconsin, and, in this instance, provided the social media platform for the Kenosha Guard and Boogaloo Bois to organize and further their conspiracy. The company received over 400 complaints regarding the Kenosha Guard’s Call to Arms; however, it declined to take action at the time, later admitting that it made an “operational mistake” in doing so, and removed the Kenosha Guard page only after two deaths had occurred.

FACTS

34. The police shootings of unarmed Black people continue to plague the United States. To draw attention to the assault of Jacob Blake—who was paralyzed after

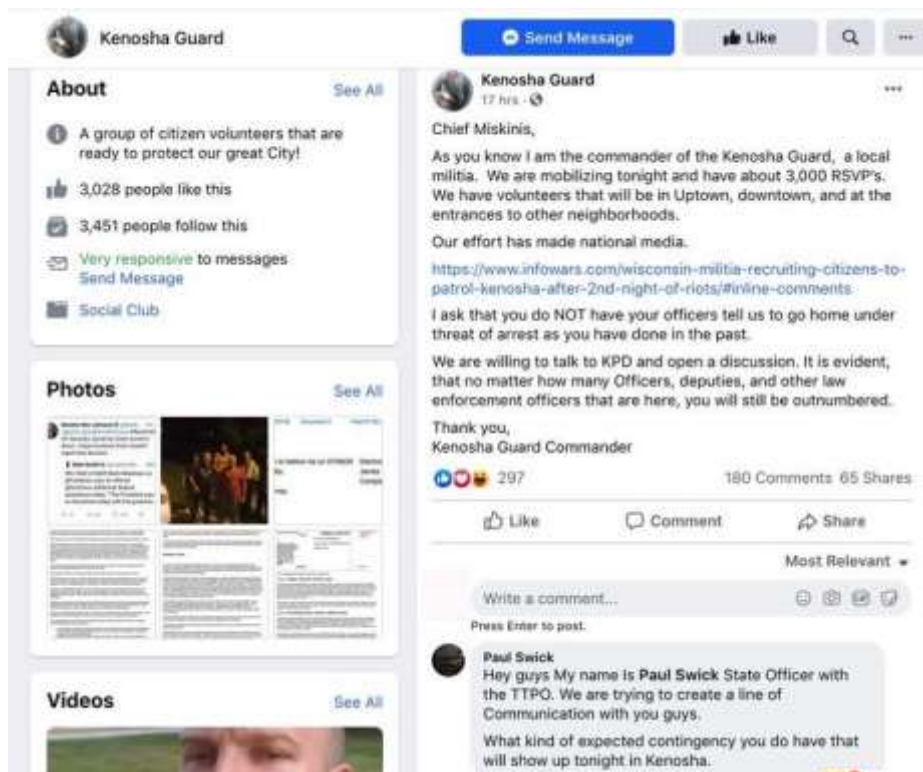
being shot four times in the back—the Black Lives Matter movement organized a protest in Kenosha, Wisconsin. In response, armed militia groups conspired with race-based animus to violate their rights, harass, intimidate, shoot, and in the case of two protestors, kill them.

35. Facebook, where most of the conspiring took place, failed to act to prevent this harm to Plaintiffs and other protestors. Despite over 400 reports of the Kenosha Guard's event page and its call to arms, as well as the violent rhetoric throughout, Facebook failed to remove the page from its site until after several deaths, injuries, and extensive harassment occurred. This shirking of responsibility is not the first time Facebook's failure to act has resulted in real-world injuries—the page for the “Unite the Right” rally in Charlottesville was left live for several weeks, resulting in the murder of peaceful protester Heather Heyer—and it is time for the company to face actual consequences for its (in)action.

HISTORY OF THE MILITIAS

36. Kenosha Guard: In response to the protests of George Floyd's death, Defendant Mathewson founded the Kenosha Guard in June 2020, appointing himself Commander. He created a Facebook page that described the group as “citizen volunteers that are ready to protect our great city,” though in an interview he referred to the group as a militia.¹⁰ This militia and its page did not garner much attention until it created the Call to Arms in the days prior to the murders on August 25, 2020.

¹⁰ <https://www.bbc.co.uk/sounds/play/m000lyzn>



37. Boogaloo Bois: This group began in the early 2010's, primarily in online spaces. According to the Southern Poverty Law Center, boogaloo "was frequently associated with racist violence and, in many cases, was an explicit call for race war. Today the term is regularly deployed by white nationalists and neo-Nazis who want to see society descend into chaos so that they can come to power and build a new fascist state."¹¹ Members are often seen wearing Hawaiian shirts and military fatigues to identify themselves at protests, in case the assault rifles they carry fail to get the message across. They communicate and identify through memes,¹² insignias, and symbols as well, such as the igloo flag with Hawaiian print.

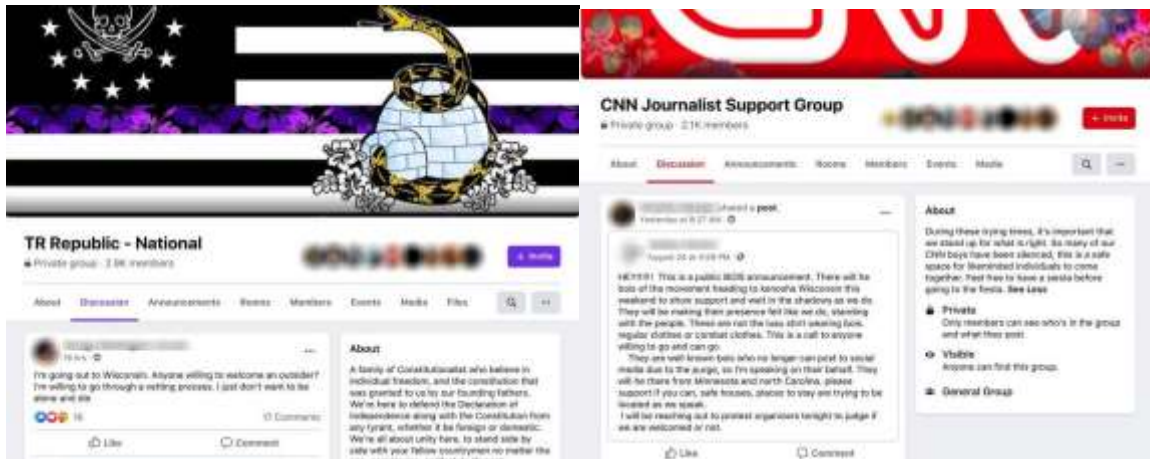
¹¹ <https://www.splcenter.org/hatewatch/2020/06/05/boogaloo-started-racist-meme>

¹² The use of altered versions of Pepe, the cartoon frog that is a favorite meme of the alt-right, is particularly common.



38. There is a terrible history of violence associated with the members of this group. On May 29, 2020, Steven Carrillo was arrested and charged with the murder and attempted murder of law enforcement officers. The federal complaint linked Carrillo with the boogaloo movement, stating he was a member of a group called “BoojieBastards: The Armory” (later “[Redacted]Liberty: The Armory”). The Armory group was not removed by Facebook until June 17, following coverage of Carrillo’s alleged murder spree.

39. The Tech Transparency Project identified 110 new Facebook boogaloo groups that were created since June 30, 2020, even after Facebook announced it was banning the boogaloo network. Due to Facebook’s slow and piecemeal approach to removing this content, group administrators have ample time to adjust their online strategies. For example, a number of private groups began changing their names to replace the word “boogaloo” and known derivations like “big igloo,” “boojahideen,” and “big luau,” with other terms like “[redacted]” and “liberty” in an effort to avoid notice by Facebook.

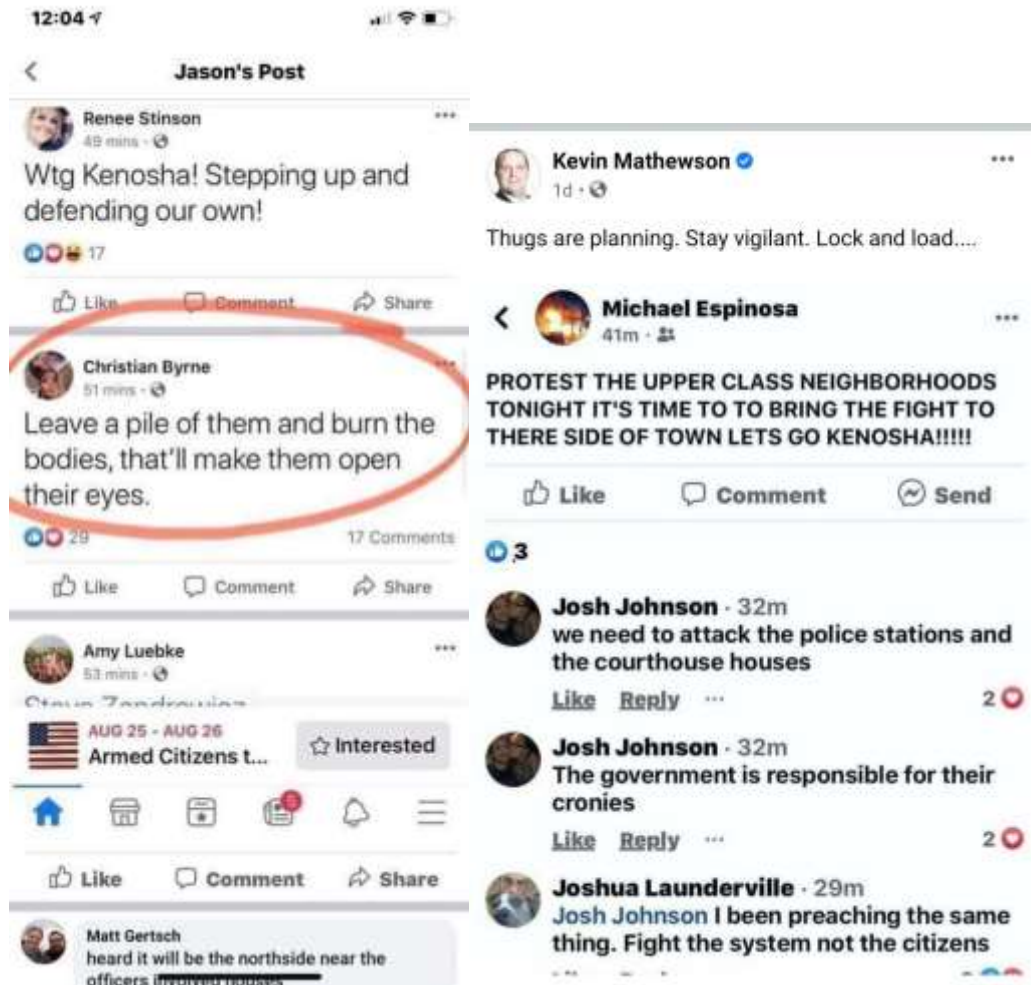


EVENTS OF KENOSHA

Defendants Promoted Attendance, Violence, and Imagery Designed to Threaten, Intimidate, and Harass

40. The peaceful protests by Black Lives Matter and its supporters began on August 23, 2020. A state of emergency was declared, and the National Guard arrived the next day. On August 24, Commander Mathewson created the event page entitled Armed Citizens to Protect our Lives and Property—which Mathewson later labeled a “Call to Arms”—scheduled for August 25. A gathering was also hosted so members of the Kenosha Guard could choose which area they wished to “protect.”

41. The Call to Arms was immediately ratified with violent rhetoric by Kenosha Guard members, with comments such as “leave a pile of them and burn the bodies” and “shoot to kill;” these statements were adopted and encouraged by Commander Mathewson through likes, as well as allowing them to remain on the page. Commander Mathewson also called the protestors “thugs,” which is a racist dog-whistle used to refer to Black Americans, and then urged members to “lock and load.”

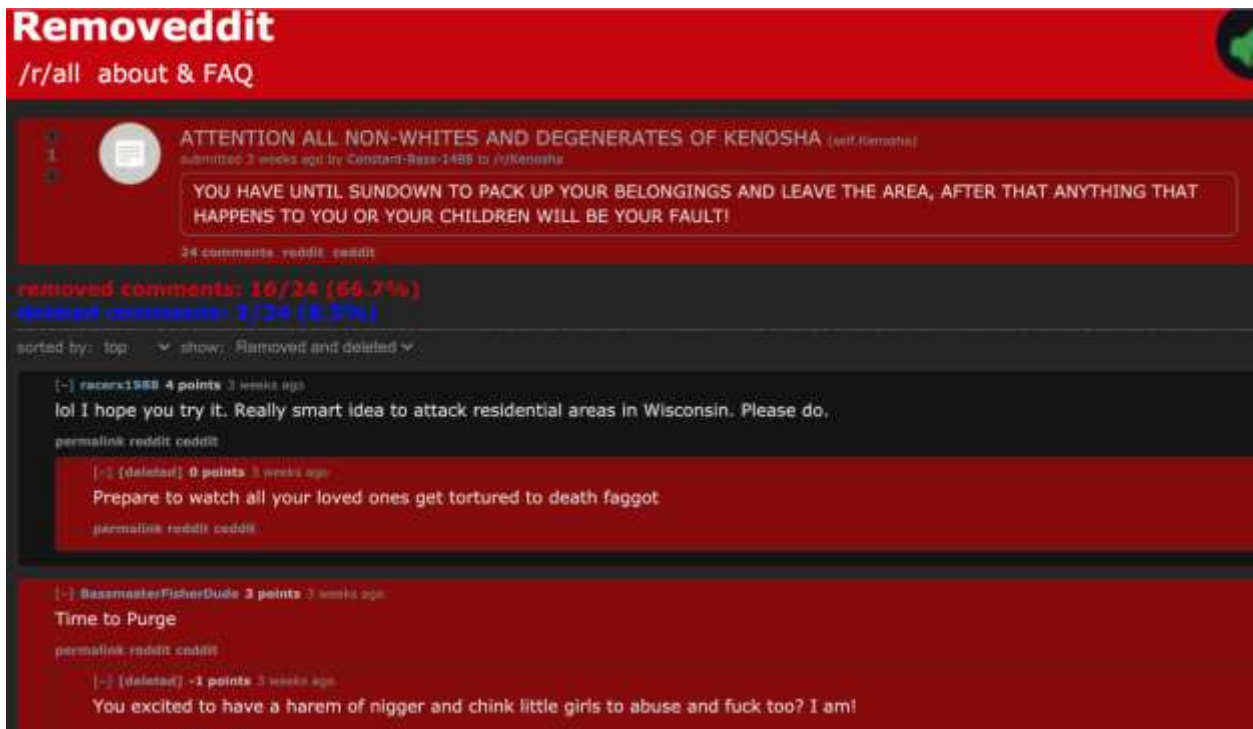


42. The Call to Arms was also picked up by InfoWars, the right-wing conspiracy website, which allowed it to gain national attention. Commander Mathewson then wrote to the Kenosha Chief of Police, stating that the Call to Arms had resulted in more than 3000 RSVP's, as well as having been publicized by Infowars.

43. Following this publication, now-deleted Reddit threads in the subreddit r/Kenosha further encouraged violence. One poster claimed they were traveling from Green Bay with "lots of guns. Lots of pipe bombs. Going to cleanse the streets of rioters."



44. Some of the Reddit posts directly targeted non-whites and “degenerates” of Kenosha, stating that if they refused to leave “anything that happens to you or your children will be your fault.” One commenter posted “Time to Purge,” a reply to which stated “You excited to have a harem of n***** and c***k little girls to abuse and f*** too? I am!”



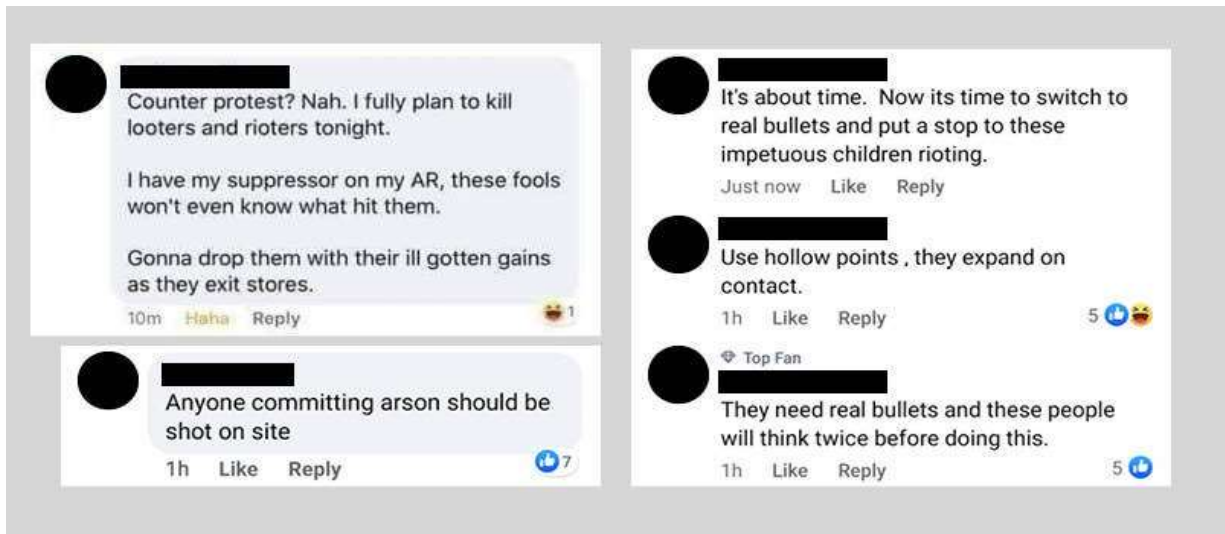
The Night of August 25: Defendants and Coconspirators Conspire to Commit Acts of Violence, Intimidation, and Harassment Against the Kenosha Protestors

45. Defendants Mathewson and the Kenosha Guard began to gather around 6:00 p.m. the night of August 25. They posted video to the Facebook page urging others to join them, in addition to a picture noting they were armed and ready.



46. In furtherance of the conspiracy, members posted encouragement with phrases such as “give them hell” and “shoot to kill.” Other members advised to “use hollow points, they expand on contact.”





47. Various members of the Boogaloo Bois joined the Kenosha Guard later that evening, including Defendant Balch. Upon arriving in Kenosha, he went to Sheridan and 60th Street and found a group of armed men that included Defendant Rittenhouse. He inserted himself into the group, claiming to be a “Tactical Advisor,” after which they proceeded to point their assault rifles at protestors, threatening, scaring, insulting, and harassing them with words such as “dyke” and “faggot,” as well as kenneling and corralling them into certain areas, telling them where they could and could not go.



Defendants Balch and Rittenhouse before the shooting

48. Defendant Balch and other coconspirators took up position on roofs in order to act as snipers, in addition to positioning themselves on strategic street corners so that protestors could see and feel the assault rifles being trained on them. It further allowed the coconspirators to control the ingress and egress of protestors around the Civic Center Park area of Downtown Kenosha, the designated meeting point for the protest. In this manner, the conspiracy took on the mantle of the police force, though all defendants were fully aware they were not authorized by the Kenosha Police Department to do so.¹³



The Shootings

49. When Plaintiff Peet arrived at the Civic Center at approximately 8:30 p.m. to record the events of the protest, there were roughly fifty militia members in the park and surrounding areas. They were all carrying assault rifles, pistols as side arms, wearing bullet proof vests, and sporting other war time tactical gear and communication devices. The men

¹³ Indeed, Kenosha County Sheriff David Beth made an official statement noting that neither the police department, nor any government official, directed or consented to this behavior; nor were any members of the militia deputized, given the men would then become “a liability to me and the county and the state of Wisconsin.” “*Oh Hell No: Kenosha Sheriff Says Vigilante Group Asked Him to Deputize Them*,” Chicago 5, Aug. 26, 2020, <https://www.nbcchicago.com/news/local/kenosha-sheriff-says-vigilante-group-asked-him-to-deputize-them/2329038/>

were combative, aggressively trailing protestors in a belligerent and threatening manner, and kenneling protestors into certain areas that were chaotic and unsafe.¹⁴ Both the men on the ground and the snipers on the roofs were all communicating with each other verbally and electronically.

50. As he was attempting to get out of the kenneling tactic, Mr. Peet witnessed militia members—including Defendant Balch and his contingent—arguing with protestors. In addition to the snipers, militias were also blocking off the side roads and exits from the area, so that he and other protestors were unable to leave this increasingly chaotic and violent scene. He could not differentiate between the militias and police, who appeared to be working in coordination.

51. Mr. Peet was then forcibly corralled into the Repair Shop parking lot where he witnessed the murder of Defendant Rittenhouse's first victim. Thinking he could help the man, Mr. Peet tried desperately to move him to the nearby hospital, but they were unable to get free due to the lack of space and chaos that had been generated by the militia's tactics.

52. Defendant Rittenhouse, with the weapon provided to him by Mr. Black, then fled, with protestors chasing after him, yelling for police to apprehend the shooter. Anthony Huber, Plaintiff Gittings's partner, chased after him, attempting to disarm Rittenhouse with his skateboard in order to protect the lives of his friends. That was when Rittenhouse fatally shot Anthony, Hannah's life partner.

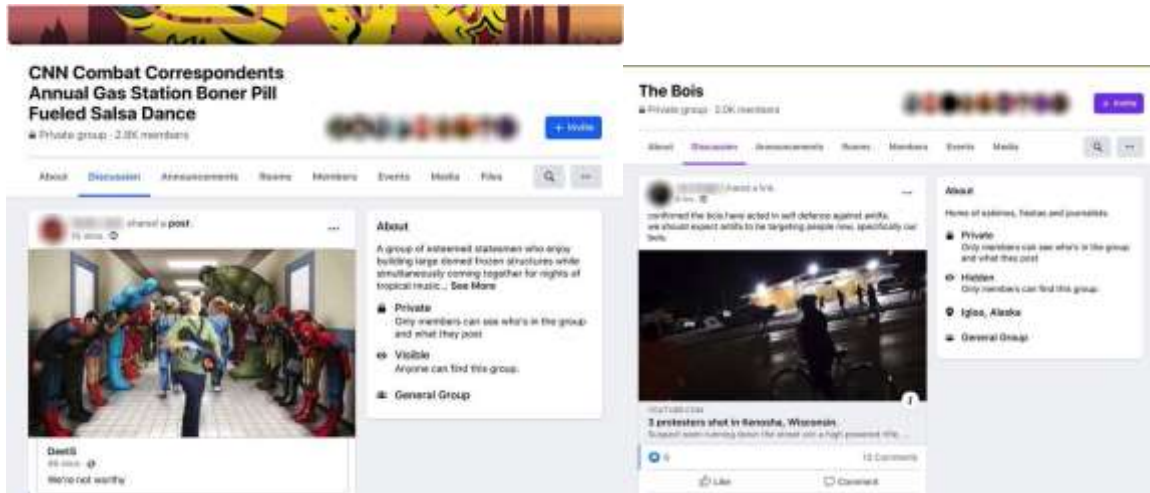
¹⁴ This was all recorded on Mr. Peet's live feed.



Crouched down to stabilize his rifle, Defendant Rittenhouse assumed this combat stance following the death of Anthony Huber

53. A third man attempted to disarm Rittenhouse, who shot and severely wounded him. Rittenhouse then fled the scene. He walked past police with his arms up, his rifle strapped to his chest, and despite many people yelling that he was the shooter, police let him leave. Rittenhouse went home to Illinois, where he was subsequently extradited to Wisconsin on murder charges.

54. Since the shooting, many Boogaloo Bois and coconspirators praised and ratified Rittenhouse's actions. Claiming he is a hero of the movement, one post referred to him as one of "the bois." They also started a collection for Rittenhouse's defense attorney fees, which currently sits at over \$100,000.



Plaintiff Palmer's Harrowing Experience

55. Plaintiff Palmer had traveled to Kenosha with a group of approximately twenty-five other peaceful activists—including her two children—so they could join the protest. Many of the cars in the caravan had Black Lives Matter stickers and other messages indicating support for the racial justice movement. While in transit from Milwaukee to Kenosha, about fifteen cars and trucks driven by white males aggressively tailed their group.¹⁵ The moment they exited the highway into Kenosha, more cars driven by white men followed them in a threatening manner, causing Plaintiff Palmer to feel like she, her children, and the rest of the group were in danger. Following their arrival at the Civic Center area for the protest, they were met by white militia members pointing assault rifles at them, their laser pointers trained on Plaintiff Palmer and her children.

56. Understandably terrified, the group decided they could not safely stay in Kenosha, and so returned to their cars—where they found their tires slashed.¹⁶ As they

¹⁵ These seemed to be part of a plan to Plaintiff Palmer, i.e. that trucks from the militia supporters were stationed and looking for Black people traveling from Milwaukee.

¹⁶ They also saw three white militia members standing alongside where they were parked, laughing at them.

were trying to repair the tires so they could drive to safety, three militia members drove up in a black truck and pepper sprayed—*maced*—them, causing not only physical pain and suffering, but the mental anguish and historic dehumanization that comes from armed white men physically preventing Black Americans from exercising their rights and privileges.

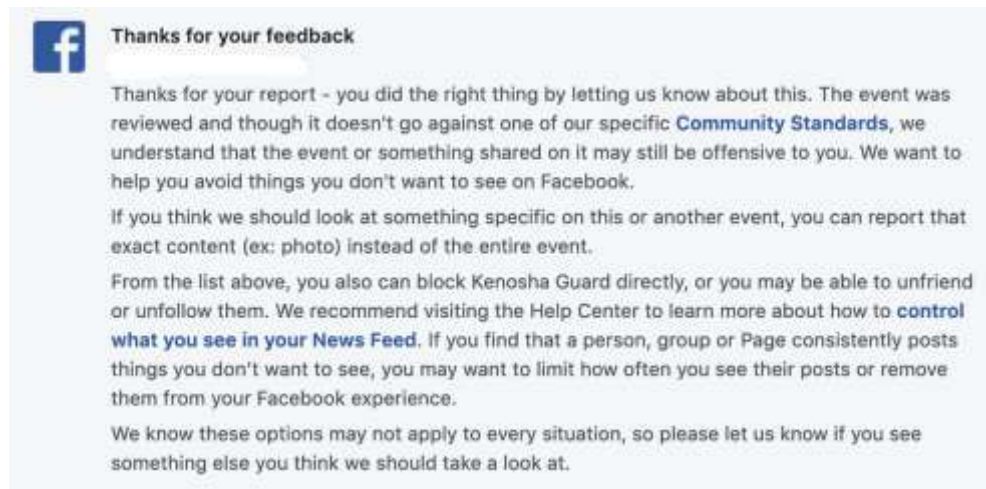
57. Having been violently prevented from traveling and exercising their rights in another locale, Plaintiff and her group tried to find police to make a complaint, but they were nowhere in sight. They pooled together their spares to replace tires, then drove to a safer area to strategize a way to travel safely out of Kenosha. However, wherever they went, they were met with trucks driven by white men who used their vehicles to control where the group went, blocking their way out of town. After escaping Kenosha—without being able to take part in the protest—they thankfully made it back to Milwaukee. “It was the scariest experience of my life,” says Ms. Palmer. “And I have seen a lot. I had to keep it together for my children, but when I got home, I had a panic attack.”

FACEBOOK’S ROLE

58. The successful conspiracy to deprive Plaintiffs of their rights could have been prevented by Defendant Facebook. Before the shootings took place, the company received more than 400 reports of the Kenosha Guard and its event page, claiming they were violating community standards, such as the ban on inciting violence. This constituted approximately 66% of all events reported that day.¹⁷ Following four manual and dozens of automated reviews, the page remained live until days after the shooting, in contravention

¹⁷ *A Kenosha Militia Facebook Event Asking Attendees To Bring Weapons Was Reported 455 Times. Moderators Said It Didn’t Violate Any Rules.*, BuzzFeed News, Aug. 28, 2020 <https://www.buzzfeednews.com/article/ryanmac/kenosha-militia-facebook-reported-455-times-moderators?origin=thum>

of Facebook’s policy prohibiting militia groups; instead of removing the page, responses to the complaints claimed it did not in fact violate Community Standards.¹⁸



59. Though the company claimed to have removed the event page detailing the Call to Arms the day following the shootings, it was in fact deleted by Defendant Mathewson—Facebook did not remove the Kenosha Guard page itself until afterwards. Facebook CEO Mark Zuckerberg admitted that the corporate giant had made an “operational mistake” and apologized, but the lethal damage to life and rights had already been done.

60. Moreover, though it labeled Defendant Rittenhouse’s actions as a “mass murder,” Facebook claimed there were no direct links between his accounts and the Kenosha Guard page. However, common sense—and, likely, further discovery—counsels that Rittenhouse would not have known about or traveled to Kenosha but for the Call to Arms having been widely publicized.

¹⁸ *How Facebook Failed Kenosha*, BuzzFeed News, Sep. 3, 2020, <https://www.buzzfeednews.com/article/ryanmac/facebook-failed-kenosha>

61. Having failed in its duty to prevent this foreseeable harm—despite the fact that almost this exact scenario occurred before, resulting in the death of protestor Heather Heyer in Charlottesville, Virginia—this time, Facebook’s inaction led to the death of two protestors, in addition to the harm suffered by Plaintiffs. The enabling and empowering of militias to conspire with its platform and tools allows white supremacist groups to recruit, organize, and thrive, while Facebook continues to profit from their activities, and those who fight for social justice continue to die.

INJURIES SUFFERED

62. Plaintiffs suffered the following harm, caused by the actions of Defendants and coconspirators, which were in furtherance of the conspiracy to deprive Plaintiffs of their rights:

63. Plaintiff Gittings has experienced profound emotional trauma and physical suffering from seeing her significant other murdered. Not only did this deprive her of the right to protest on the night in question, it served to have a chilling effect with regard to her protest rights going forward. In addition to the violence inflicted on her partner, she also suffered through threats, insults, harassment, and intimidation inflicted on her from the Kenosha Guard and Boogaloo Bois; the violence of the assault rifles pointed directly at her, inhibiting her movement, also caused harm.

64. Plaintiff Gittings also suffered pecuniary damages, such as Anthony’s funeral costs and other expenses incurred by his loss. She was prevented from retrieving her house and car keys from his body or see him until she found a funeral home and had the ability to pay all costs associated with it.

65. Plaintiff McNeal was assaulted, harassed, and had his movement inhibited. This false imprisonment of a Black man—who was threatened at gun point, and told what he could and could not do, say and could not say—resulted in severe emotional distress and physical harm. As a result of these acts made in furtherance of the conspiracy, Plaintiff McNeal experienced extreme emotional trauma from being threatened and intimidated by white armed militia holding racist beliefs—namely that his skin color makes him inferior and that his rights and life are lesser than those white militia members who took up to arms to deprive him of those rights.

66. Plaintiff Peet suffered extreme emotional distress and physical harm from witnessing the murder of Defendant Rittenhouse’s first victim, particularly after being unable to provide aid to the dying man due to the corralling tactics of the militias. The tort of false imprisonment also caused damage.

67. Plaintiff Palmer was physically harmed when she was assaulted with pepper spray. In addition to monetary damages, she also suffered extreme emotional distress as a result of having her tires slashed and being physically prevented from leaving Kenosha. The false imprisonment tort that occurred also resulted in damages.

68. Additionally, since the armed militias conspired together to terrorize Plaintiffs and protestors in Kenosha, the size of constitutionally-protected protest in Kenosha has greatly diminished out of fear of having to protest at the end of a sniper rifle. The Call to Arms and organizing between these militias resulted in terror, fear, and murder. These militias are not police officers or law enforcement and lack training with regard to constitutional rights and protest control, yet assumed the role of law enforcement by conspiring together to control and repress protest rights by creating the real risk that legal

protest can result in being assaulted, threatened, shot, or killed by organized groups of citizens who hold deeply irrational beliefs about race, history, and American society.

69. In sum, the conspiracy between the named Defendants and armed militia members deprived Plaintiffs and hundreds of American citizens of their fundamental right to come together and raise their voice pursuant to, *inter alia*, the First Amendment to the United States Constitution as statutorily codified in the civil rights provisions enumerated *infra*.

CAUSES OF ACTION

COUNT I: 42 U.S.C. § 1985(3)

70. Plaintiffs incorporate by reference the averments contained in all proceeding paragraphs.

71. This Count is brought by all Plaintiffs against Defendants Mathewson, the Kenosha Guard, Balch, Boogaloo Bois, and Rittenhouse.

72. The above-named Defendants engaged in a racially motivated conspiracy to deprive Black people and their supporters of their constitutionally protected rights under the Thirteenth Amendment to be free from violence, intimidation, and harassment, as well as prevented them from utilizing their right of freedom to travel. *See Griffin v. Breckenridge*, 403 U.S. 88 (1971). The Defendants also committed various torts against Plaintiffs, including but not limited to civil conspiracy, intentional infliction of emotional distress, and false imprisonment. This conspiracy resulted in injury to all Plaintiffs.

73. As Against Defendants Mathewson and the Kenosha Guard: Mathewson founded the Kenosha Guard and claims to be its Commander. He then created a Facebook page for the group, which attracted many members who espoused racist rhetoric, as well

as the event page that started the deadly events of Kenosha. His discussions with the group members, his statement to the Police Chief, as well as his use of racist dog whistles all establish that he entered into an agreement with other coconspirators of the Kenosha Guard to engage in racially motivated violence.

74. The group itself is a collection of members clearly motivated by racial animus, who armed themselves with the intention of depriving Plaintiffs of their rights as American citizens. Their claim that they desired to “protect property” is belied by the violent rhetoric espoused by group members and its affiliates on Reddit.

75. As Against Defendants Balch, Boogaloo Bois, and Rittenhouse: According to his own Facebook post, Balch “joined a contingent of militia . . . headed to Kenosha Wisconsin,” and “after infiltrating Kenosha....inserted [himself] into a tactical advisement role” in the group of armed men that included Rittenhouse. This constituted the overt act in which he joined the conspiracy organized by Mathewson and the Kenosha Guard.¹⁹

76. Both Balch and Rittenhouse communicated extensively during the time that led up to Rittenhouse shooting three people, furthering the conspiracy to prevent Plaintiffs’ freedom of movement, as well as depriving them of their right to be free from harassment, assault, and fear of death. Given Balch’s previous history supporting white nationalist and Nazi propaganda, his intent to engage in the racially-motivated deprivation of rights suffered by Plaintiffs is evident.

¹⁹ Plaintiffs believe further discovery will show that Balch communicated specifically with Commander Mathewson and other Kenosha Guard members before arriving in Kenosha on August 25th and that Defendant Rittenhouse obviously communicated with Mr. Black prior in order to get the weapon from him that he used to kill two people and grievously injure a third.

77. The Boogaloo Bois were represented in Kenosha by other members of the group—consisting of as-yet unidentified coconspirators—in addition to Balch. This group, with its history of supporting the white supremacist movement, was instrumental in furthering the conspiracy to injure Plaintiffs.

78. Given the above facts, the elements of 42 U.S.C. § 1985(3) are met, and the Defendants are liable to the Plaintiffs for the harm caused.

COUNT II: 42 U.S.C. § 1986

79. Plaintiffs incorporate by reference the averments contained in all proceeding paragraphs.

80. This Count is brought by all Plaintiffs against all Defendants.

81. As alleged in Count I, a conspiracy occurred pursuant to section 1985(3) that resulted in injury to Plaintiffs. The facts show that Defendants Mathewson, the Kenosha Guard, Balch, Boogaloo Bois, and Rittenhouse all participated actively in the conspiracy, and therefore had the power to prevent the violence that occurred.

82. With regard to Defendant Facebook, there were over 400 reports of the violent rhetoric taking place on the Kenosha Guard event page, establishing Facebook had ample knowledge of the conspiracy. Removing this page from its platform would have greatly aided in preventing the organization and popularization of the militias. Perhaps, if Facebook had taken down the page in accordance with its policies, Rittenhouse would never have traveled to Kenosha. Nonetheless, Facebook neglected to prevent the furtherance of the conspiracy, in violation of its duties enumerated in 42 U.S.C. § 1986.

83. With these allegations, Plaintiffs have met the elements of 42 U.S.C. § 1986, and therefore all Defendants are liable for the harms that the Plaintiffs suffered.

COUNT III: NEGLIGENCE

84. Plaintiffs incorporate herein the averments contained in all prior paragraphs.

85. This count is brought by all Plaintiffs against Defendant Facebook.

86. In violation of Wis. Stat. § 895.045 and the common law standard set forth in Wisconsin case law, Facebook breached its duty to stop the violent and terroristic threats that were made using its tools and platform. A duty consists of “the obligation of due care to refrain from any act which will cause foreseeable harm to others....A defendant’s duty is established when it can be said that it was foreseeable that [the] act or omission to act may cause harm to someone.” *Coffey v. Milwaukee*, 74 Wis. 2d 526, 536 (1976) (internal citations omitted).

87. By its own admission, Facebook failed to heed the more than 400 complaints that were issued against the Kenosha Guard Facebook page—an omission that caused foreseeable harm to Plaintiffs. The CEO of Facebook himself, Mark Zuckerberg, admitted that the company’s failure was an operational error and that the corporation had made a mistake; it then proceeded to remove the Kenosha Guard Facebook page, but the harm had already been done.

88. This “mistake”—the breach and failure to exercise due care—empowered and enabled the militias’ conspiracy to threaten, intimidate, and harass Plaintiffs and protestors, resulting in serious harm to Plaintiffs and deprivation of their rights. But for Facebook’s failure to respond to the complaints about the Kenosha Guard’s call to Arms and the coconspirators’ violent rhetoric, the Kenosha Guard would not have been able to amplify its message and summon armed, untrained militia members to assault and terrorize Plaintiffs. As a result of this inaction, Facebook is liable for the harm its negligence caused.

COUNT IV: CIVIL CONSPIRACY

89. Plaintiffs incorporate herein the averments contained in all prior paragraphs.

90. This count is brought by all Plaintiffs against Defendants Mathewson, Kenosha Guard, Balch, the Boogaloo Bois, and Rittenhouse.

91. As previously alleged, Defendants relevant to this Count conspired to commit various unlawful acts, which are set forth in the following paragraphs.

92. It is a Class I felony to violate Wis. Stat. § 946.69(2), which forbids civilians to act in an official capacity or perform an official function, knowing they are not a public officer or otherwise authorized to do so by law enforcement. Along with providing weapons and direction to one another, when Defendants controlled the ingress and egress of protestors by positioning themselves—with rifles pointed at the protestors—on strategic corners and rooftops, as well as told protesters where they were and were not allowed to go, they acted in an official capacity, performing the duties of officers of the peace. Therefore, their actions were in violation of Wis. Stat. § 946.69(2).²⁰

93. Rifles being pointed at protestors with the intent to intimidate also constitutes harassment with a credible threat of violence, which is a misdemeanor pursuant to Wis. Stat. § 947.013(1r)(a). These actions further violate Wisconsin's prohibition on disorderly conduct, as set forth in Wis. Stat. § 947.01(1). More importantly, though, Wis. Stat. § 939.645 protects people and property from being targeted on the basis of race, religion, sexual orientation, or national origin. Defendants and coconspirators violated this section when they hurled homophobic slurs, aimed military grade assault rifles at Plaintiffs,

²⁰ Defendants also possessed military grade communications devices which would have required prior organization. Plaintiffs intend to explore the communication channels organized and maintained by the conspiracy in discovery.

and otherwise threatened and harassed them because of their race or their support of Black Lives Matter.

94. Additionally, the tactics to restrict the protestors' movements meets the elements of both the tort and Wisconsin Class H felony of false imprisonment, as codified in Wis. Stat. § 940.30. With the intent to confine Plaintiffs to small, chaotic areas, with no lawful authority to do so and without consent, Defendants' conduct satisfies the statute's elements. Though this applies to all Plaintiffs—as each one was at some point confined due to Defendants' and coconspirators' corralling and herding tactics—this allegation is particularly apt with regard to Plaintiff Palmer. Not only were she and her family confined to their cars while being harassed by the men in trucks with their pepper spray, they were prevented from leaving Kenosha entirely when each car's tires were slashed.

95. As detailed in Count I, Defendants formed an agreement to harass and threaten protestors, following through with overt actions to further this conspiracy. This resulted in violations of several Wisconsin statutes by Defendants and coconspirators, which caused great harm to Plaintiffs. Therefore, the actions of the above-named Defendants constitute conspiracy within the meaning of Wisconsin law. *See City of Milwaukee v. NL Indus., Inc.*, 278 Wis. 2d 313, 328–29 (Ct. App. 2004) (“To state a cause of action for civil conspiracy, the complaint must allege: (1) The formation and operation of the conspiracy; (2) the wrongful act or acts done pursuant thereto; and (3) the damage resulting from such act or acts.”).

COUNT V: INTENTIONAL & NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

96. Plaintiffs incorporate herein the averments contained in all prior paragraphs.

97. This count is brought by all Plaintiffs against Defendants Mathewson, Balch, Rittenhouse, and all as-yet-unidentified coconspirators.²¹

98. The intentional, extreme, and outrageous conduct by Defendants caused severe emotional distress to all Plaintiffs. Falsely imprisoned through the use of assault rifles, forced to hear slurs hurled at them, Black people being told what to do by armed white men—this all caused Plaintiffs to feel understandable, extreme distress.

99. Even more terribly, though, Plaintiffs Peet and Gittings were forced to watch someone die, and in the case of Gittings, she witnessed the murder of her life partner. This conduct is clearly outrageous and beyond the bounds of all human decency. Therefore, the above-named Defendants are liable to Plaintiffs under the theory of intentional infliction of emotional distress, as described in *Alsteen v. Gehl*, 21 Wis. 2d 349, 360–61 (1963).

100. Alternatively, Defendants are liable under the theory of negligent infliction of emotional distress. The actions detailed in this complaint were, in a very generous sense, at least negligent. The resulting injury suffered by all Plaintiffs as a result of their conduct satisfy each element of the claim. *See Bowen v. Lumbermens Mut. Cas. Co.*, 183 Wis. 2d 627, 652–53 (1994) (“the traditional elements of a tort action in negligence—negligent conduct, causation and injury (here severe emotional distress)—should serve as the framework for evaluating a bystander’s claim of negligent infliction of emotional distress”).

²¹ Defendants are liable for torts committed by their coconspirators that were a reasonably foreseeable result of the conspiracy. *See Edwardson v. American Family Mut. Ins. Co.*, 223 Wis. 2d 754, 760 (Ct. App. 1998). The violence, threats, and intimidation visited upon Plaintiffs by all coconspirators is a reasonably foreseeable result of an agreement to harass protestors.

PRAYER FOR RELIEF

Wherefore, the Plaintiffs respectfully request an award of the following relief:

101. A declaratory judgment that the actions described herein deprived the Plaintiffs of their rights and guarantees under federal and state law.

102. Injunctive relief enjoining the Defendants from future violations of the Plaintiffs' rights guaranteed under federal and state law, in addition to an injunction preventing Defendant Facebook from violating its own policies that are designed to prevent violence, racial animosity, and violations of federal and state law.

103. Compensatory and statutory damages at an amount to be determined at trial.

104. Punitive damages at an amount to be determined at trial.

105. Attorney fees and court costs pursuant to 42 U.S.C. § 1988, as applicable to 42 U.S.C. §§ 1985–86.

106. Such other relief as the Court deems just and proper.

Respectfully submitted,

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